

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

ELAINE RICE and ALEX KUKICH,
Individually, and on behalf of all others
similarly situated,

Plaintiffs,

v.

ELECTROLUX HOME PRODUCTS,
INC.,

Defendant.

No. 4:15-CV-00371

(Judge Brann)

ORDER

AND NOW, this 20th day of February 2018, in accordance with the accompanying Memorandum Opinion, **IT IS HEREBY ORDERED** that:

1. Defendant Electrolux Home Products, Inc.'s Partial Motion to Dismiss (ECF No. 117) is **GRANTED** in part and **DENIED** in part, as follows:

- a. The motion is **DENIED** with respect to Defendant's request to strike Plaintiffs' amended class definitions;
- b. The motion **is DENIED** with respect to Plaintiff Kukich's Tort claims, as included in Counts Two, Three, and Seven of the Consolidated Amended Class Action Complaint;
- c. The motion is **GRANTED** with respect to Plaintiff Rice's Tort-Based Claims seeking purely Economic Damages, as including in Counts Two, Three, and Seven. Plaintiff Rice's claims in tort for both

economic and non-economic losses, on behalf of herself and those similarly situated, remain severed in accordance with my Memorandum Opinion of July 28, 2015, with all economic losses resulting solely from damage to the product itself being dismissed.

- d. The motion is **GRANTED** with respect to Plaintiff Kukich's claim for Breach of the Implied Warranty of Merchantability (Count Five). Said dismissal is with prejudice;
 - e. The Motion is **GRANTED** with respect to Plaintiff Kukich's Breach of Express Warranty claim (Count Six), and his claim under the Magnuson Moss Warranty Act (Count Four). Leave to amend, however, is granted to the extent Plaintiff can correct the deficiencies outlined in the accompanying Memorandum Opinion; and
 - f. The motion is **DENIED** with respect to Plaintiff Kukich's Declaratory Relief Claim (Count One).
2. Plaintiffs are **GRANTED** leave to amend their complaint, as indicated in the accompanying Memorandum Opinion, **no later than twenty-one (21) days** from the date of this Order.

BY THE COURT:

s/ Matthew W. Brann
Matthew W. Brann
United States District Judge